

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Jimmy Littleton,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 10 C 5099
	)	
CardWorks Servicing, LLC, a Delaware	)	
limited liability company,	)	
	)	
Defendant.	)	<u>Jury Demanded</u>

**COMPLAINT**

Plaintiff, Jimmy Littleton, brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), for a finding that Defendant's debt collection actions violated the FDCPA, and to recover damages for Defendant's violations of the FDCPA, and alleges:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction pursuant to § 1692k(d) of the FDCPA, and 28 U.S.C. § 1331.
2. Venue is proper in this District because: a) part of the acts and transactions occurred here; and, b) Defendant resides and transacts business here.

**PARTIES**

3. Plaintiff, Jimmy Littleton ("Littleton"), is a citizen of the State of Arkansas, from whom Defendant attempted to collect a delinquent consumer debt owed for a Merrick Bank credit card, despite the fact that he was represented by the legal aid attorneys at the Chicago Legal Clinic's Legal Advocates for Seniors and People with Disabilities program ("LASPD"), located in Chicago, Illinois.

4. Defendant, CardWorks Servicing, LLC, is a Delaware limited liability company ("CardWorks") that acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer debts. Defendant CardWorks operates a nationwide debt collection business and attempts to collect debts from consumers in virtually every state, including consumers in the State of Illinois. In fact, Defendant CardWorks was acting as a debt collector as to the delinquent consumer debt it attempted to collect from Mr. Littleton.

5. Defendant CardWorks is licensed to conduct business in Illinois and maintains a registered agent here, see, record from the Illinois Secretary of State, attached as Exhibit A. In fact, CardWorks conducts business in Illinois.

6. Moreover, Defendant CardWorks is licensed as a collection agency in Illinois, see, record from the Illinois Division of Professional Regulation, attached as Exhibit B. In fact, CardWorks acts as a debt collector in Illinois.

### **FACTUAL ALLEGATIONS**

7. Mr. Littleton is a senior citizen, with limited assets and income, who fell behind on paying his bills, including a debt he owed for a Merrick Bank credit card. When Defendant CardWorks began trying to collect this debt from Mr. Littleton, he sought the assistance of the legal aid attorneys at the Chicago Legal Clinic's LASPD program, regarding his financial difficulties and Defendant CardWorks' collection actions.

8. On July 11, 2009, one of Mr. Littleton's attorneys at LASPD informed CardWorks, in writing, that Mr. Littleton was represented by counsel, and directed

CardWorks to cease contacting him and to cease all further collection activities because Mr. Littleton was forced, by his financial circumstances, to refuse to pay his unsecured debt. Copies of this letter and fax confirmation are attached as Exhibit C.

9. Nonetheless, Defendant CardWorks sent a collection letter, dated April 9, 2010, directly to Mr. Littleton, which demanded payment of the Merrick Bank debt. A copy of this letter is attached as Exhibit D.

10. Accordingly, on July 26, 2010, Mr. Littleton's LASPD attorney had to fax Defendant CardWorks another letter, to again direct it to cease communications and to cease collections. Copies of this letter and fax confirmation are attached as Exhibit E.

11. Defendant CardWorks' collection actions complained of herein occurred within one year of the date of this Complaint.

12. Defendant CardWorks' collection communications are to be interpreted under the "unsophisticated consumer" standard. See, Gammon v. GC Services, Ltd. Partnership, 27 F.3d 1254, 1257 (7th Cir. 1994).

**COUNT I**  
**Violation Of § 1692c(c) Of The FDCPA --**  
**Failure To Cease Communications And Cease Collections**

13. Plaintiff adopts and realleges ¶¶ 1-12.

14. Section 1692c(c) of the FDCPA prohibits a debt collector from communicating with a consumer after a direction to cease communications, and from continuing to demand payment of a debt that the consumer has indicated that they refuse to pay. See, 15 U.S.C. § 1692c(c).

15. Here, the letter from Mr. Littleton's agent, LASPD, told Defendant CardWorks to cease communications and cease collections (Exhibit C). By continuing

to communicate regarding this debt and demanding payment, Defendant CardWorks violated § 1692c(c) of the FDCPA.

16. Defendant CardWorks' violation of § 1692c(c) of the FDCPA renders it liable for statutory damages, costs, and reasonable attorneys' fees. See, 15 U.S.C. § 1692k.

**COUNT II**  
**Violation Of § 1692c(a)(2) Of The FDCPA --**  
**Communicating With A Consumer Represented By Counsel**

17. Plaintiff adopts and realleges ¶¶ 1-12.

18. Section 1692c(a)(2) of the FDCPA prohibits a debt collector from communicating with a consumer if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address. See, 15 U.S.C. § 1692c(a)(2).

19. Defendant CardWorks knew that Mr. Littleton was represented by counsel in connection with his debts because his attorneys at LASPD had informed Defendant, in writing (Exhibit C), that he was represented by counsel, and had directed Defendant CardWorks to cease directly communicating with Mr. Littleton. By directly sending Mr. Littleton the collection letter (Exhibit D), despite being advised that he was represented by counsel, Defendant CardWorks violated § 1692c(a)(2) of the FDCPA.

20. Defendant CardWorks' violation of § 1692c(a)(2) of the FDCPA renders it liable for statutory damages, costs, and reasonable attorneys' fees. See, 15 U.S.C. § 1692k.

**PRAYER FOR RELIEF**

Plaintiff, Jimmy Littleton, prays that this Court:

1. Find that Defendant CardWorks' debt collection actions violated the FDCPA;
2. Enter judgment in favor of Plaintiff Littleton, and against Defendant CardWorks, for statutory damages, costs, and reasonable attorneys' fees as provided by § 1692k(a) of the FDCPA; and,
3. Grant such further relief as deemed just.

**JURY DEMAND**

Plaintiff, Jimmy Littleton, demands trial by jury.

Jimmy Littleton,

By: /s/ David J. Philipps  
One of Plaintiff's Attorneys

Dated: August 13, 2010

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